

Community Preservation Act Committee (CPAC) Meeting Minutes

Tuesday, April 15, 2008

6:00 p.m., Community Room, Police Department

CALL TO ORDER: The meeting was called to order by Peter Jessop at approximately 6:10 p.m. in the Community Room of the Police Department

COMMITTEE MEMBERS IN ATTENDANCE:

Liv Baker, Denise Barberet, Louis Greenbaum, Peter Jessop, Chair, Ellen Kosmer, Vince O'Connor (left at 7:55), Vice Chair, Mary Streeter, Clerk, Stan Ziomek

COMMITTEE MEMBERS ABSENT: Vladimir Morales

STAFF / OTHERS IN ATTENDANCE:

Sonia Aldrich, Comptroller, Larry Shaffer, Town Manager, Joel Bard, Town Counsel, David Ziomek, Director of Conservation and Planning, Jonathan Tucker, Planning Director, Gerry Weiss, Select Board, Town Meeting members - Jim Wald, Historical Commission Chair, Carol Gray, Hilda Greenbaum, Eleanor Manire-Gatti, Kay Moran, Jonathan O'Keeffe, Alan Powell, Irv Rhodes, Walter Wolnik; John Barbaro, Susan Barbaro, Pearl Claunch, Sidney Claunch, Honore David, John Edwards, Libby Klekowski, Florence Rosenstock, Lila Rountree, Lillian Scott, Ed Wilfert; Jerry Guidera, Hills House LLC; others

AGENDA revised

- Hold Public Hearing 6-7pm
- Discussion with Town Counsel and the Town Manager on Plum Brook Debt
- Vote FY 09 Recommendations to Town Meeting
- Discuss Letter to Town Meeting
- Discuss surcharge increase
- Review minutes
- Set agenda for next meeting
- Adjourn

Introductions

Peter welcomed Ellen Kosmer, who is the new At-Large member of the CPA Committee.

Peter opened the Public Hearing and asked if anyone was there to speak on each of the following proposals before the committee:

Women's Club Historic Preservation - \$8,800

Libby Klekowski, President of the Amherst Women's Club, who lives in Leverett, said that the Women's Club maintained the property for 87 years on their own. This year is the first time they have sought outside funding to paint the Carriage House. They have reroofed it this year with 3-ply asphalt shingles.

Honore David, Vice President of the Amherst Women's Club, said they are preserving one of the last remaining carriage houses in this area.

Habitat For Humanity Affordable Housing - \$30,000 - no speakers

Pre-development funds for Affordable Housing on Olympia Drive - \$150,000 - no speakers

Archives Restoration work, Historic Preservation - \$20,000 - no speakers

Administrative expenses, membership dues - \$1500 - no speakers

Surveys and Appraisals for Open Space preservation - \$20,000 - no speakers

Lawrence Swamp Tietjen property APR - \$80,000 - no speakers

Kimball House Compensation agreement - \$50,000 - no speakers

Surveys and Appraisals for Recreation - \$20,000

Stan Ziomek said there is discussion to acquire significant land in the downtown area that would require appraisals, etc.

Town Hall Restoration Debt Service - no speakers
575 North East Street Kimball House Debt Service - no speakers
Plum Brook Athletic Fields Debt Service - no speakers

Nielson Property on South East Street \$35,000

Carol Gray said the South Amherst Conservation Association is withdrawing their request for funding at this time.

Nielson Appraisal \$2,500 - no speakers

2 Hills House Lots on Main Street - \$200,000 each

Irv Rhodes spoke against the proposal. He said we should consider a wide range of uses such as affordable housing. He said the project on Main Street seems frivolous and that we should take that \$400,000 and put it with some other money and purchase some land for Affordable Housing in order to house 20 people.

Hilda Greenbaum said CPA has a pot of money - 1/3 goes to Affordable Housing and 1/3 goes to Historic Preservation. People from all over the world visit the Emily Dickinson Historic District and we cannot have an eyesore in the middle of that Historic District. She expressed concern that we might lose tourists, restaurants, etc., and other concerns.

Jim Wald, Chair of the Historical Commission, said 2 lots are for sale for \$200,000 each; Historic Preservation requests have been very low - \$525,000. This is an absolutely vital piece of land. The Historical Commission is doing the same thing Conservation Commission does. This is a unique piece of land. He commented on the kinds of discussions we have around sports fields.

Susan Barbaro, neighbor, spoke in favor of purchasing the lots.

Libby Klekowski, Women's Club, said when you talk to tourists they enjoy the vista enormously when walking from Sweetser Park along Main Street.

Honore David, Women's Club, said we have 4 houses all worked on by the same architect, which is probably unique. She is in favor of the proposal.

John Barbaro, neighbor, said he is caught between the greed of the developer and his heart going out to people who need homes. He commented on a UMass art structure which took a while to be appreciated. He thinks he is in favor of purchasing the lots.

Carol Gray said she is concerned about how this whole deal has gone down. The lawn is completely torn up. This never should have happened. The CPA should never be put in this position. When Peter asked whether she was in favor of the proposal she said she is torn and unsure how she will vote.

John Edwards said his office is across the street and he has done some legal work for the owners. He said this is a pivotal time. This is an opportunity. Now you can see the twin sisters as they were historically.

Jonathan Tucker spoke to issues he said Ms. Gray has properly raised. All property owners have rights. Historical Commission is preserving a local Historic District. The Town has limited tools. Even such negotiation does not trump property owners' rights.

Mary Streeter said Barry Roberts subdivided the lot into 6 smaller lots. She asked whether Mr. Roberts ever stated to the Planning Board why he did that.

Jonathan Tucker said he was protecting his investment when seeking loans for his condo project. It was his way of showing banks that their investment was sound in case his condo project fell apart.

Stan Ziomek said for over 5 years LSSE tried to negotiate with the Boys Club for a joint project, but it never happened.

Gerry Weiss said the Gray Street corner is the last lot that's left and he is curious about the value of the corner lot given that there's not much of a view and then you hit a house. He asked whether the purchase of these lots guarantees the view all the way up to the house.

Jonathan Tucker said there is an open sweep from Sweetser Park to Gray Street. As you pass in front of that lot, at a certain point you have a broader and more expansive view of the lawn of the Hills House and the Women's Club. The Historical Commission has been negotiating for several weeks; this has all happened in the last 5 weeks, for the terms of Historic Preservation agreements, contracts, with the owners about lot 6 and lot 3. If another house goes on lot 2 then the restriction

would go there. It gives some control over what happens on those two most visible properties - everything that happens on the landscape, the facades of those two houses.

Gerry Weiss asked why this has become such a rush.

Jonathan Tucker said the Urban Self Help Grant application is due in mid July, the Town Meeting cycle, and the owners had a 2 year mortgage and have said that if they don't get at least an agreement, they will explore other options - they have an offer for another historic house that could be moved to the lot.

Denise asked about future owners and marketability.

Jonathan Tucker said the Kimball House agreement has a future provision. Future owners would know they are buying into a Historic District.

Ed Wilfert, neighbor, said he was dismayed when Mr. Roberts wanted to build condos. Mr. Roberts has sold it to an abutter. The new owners did what Mr. Roberts did not do. They offered it to the Town; otherwise it would be totally lost. There's an opportunity to get the Town back in the act.

Jim Wald said we're talking about an agreement, not a restriction.

Alan Powell asked if \$800,000 is the going rate per acre for a lot in Amherst.

Jonathan Tucker said the current lot (.26 acre) is going for \$200,000. He said there would be an appraisal prior to Town Meeting.

Alan Powell asked whether these 2 lots would fit 2 houses.

Kay Moran asked about the negotiations for the Historic Preservation restriction

Jonathan Tucker CPA funds are for purchase of lots 1 and 2. The Historical Commission is negotiating for preservation restriction agreements on lot 6 and the Hills mansion.

Kay Moran asked whether this project would require an additional future appropriation. She said that the historic preservation restriction is not the outcome of this purchase of 2 lots.

Jonathan Tucker said it is not a historic restriction, it's an agreement.

Vince O'Connor said we've been asking for the text of these restrictions.

Jim Wald said they are negotiating about the physical exterior of houses and the viewscape.

Sidney Claunch said he has walked past this area a number of times. There's all this growth between the Women's Club and this building and you wouldn't know there's a connection between these two buildings. You can't get a complete panorama and see it all as one. He would hate to lose that.. The sellers have made it difficult. He said he would favor the appropriation or put it up for a raffle. He would be willing to contribute something every year.

Jim Wald said contributions could be made through the Planning Department. The Historical Commission was every bit as conflicted as this committee.

Vince moved to close the Public Hearing at 6:50, Stan seconded. The vote to close the Public Hearing at 6:50 pm. was 8-0. Peter called for a short break. At 6:58 the meeting restarted.

Announcement

Peter said he has received news from the State that the projected revenues ("matching funds") are at a 65% level whereas we had previously anticipated it to be at the 80% level. He said there is new information about the Tietjen property and the Nielsen property. He suggested that the votes for the administrative appropriation, the Olympia Drive affordable housing appropriation, Habitat for Humanity, Women's Club Carriage House, document archives, the Kimball Farm contribution year 2 of 5, the Town Hall debt service year 1 of 10, and the surveys and appraisals for Open Space and Recreation, and the Kimball House Compensation Agreement with the State, all of which we favored at our last meeting, would stand, absent anyone's objection.

DISCUSSION

Peter said staff is here to speak to Plum Brook debt service and the Tietjen APR. We'll revote those.

Dave Ziomek said the Tietjen appraisal is lower than anticipated.

Motion by Vince, seconded by Stan, that the request for the Tietjen APR be reduced from \$100,000 to \$80,000 because that is sufficient

Vote: 8-0 Vladimir absent

Peter said he'd like to do the same thing with the Nielsen property. Vince said since both articles are on the warrant, he's not sure whether we can withdraw a previous approval.

Motion by Vince, seconded by Mary to recommend dismissal of the \$35,000 to Town Meeting
Dave Ziomek said on 4/9/08 he received an email from Scott Nielsen, the owner of the property on South East Street that is the subject of these 2 proposals. He's not a willing seller. For many months we had dialog with Mr. Nielsen and at that time he was a willing seller. Vince said he recommends dismissal because there's new information and there are members of the committee who are in favor and believe in the appropriation, but the dismissal relates to the timeliness. Carol Gray said she hopes we can bring it back later. Peter said we look forward to seeing you in our next funding cycle.

Vote to dismiss the \$35,000 **8-0** Vladimir absent

Vince said he does not recommend we dismiss the \$2,500 given the back and forth with that property. It's an insignificant amount. We would not be able to appropriate additional money for an appraisal until November if we take it off.

Motion Peter said he would entertain a motion that we recommend dismissal of the second article on the \$2500 appraisal. Stan seconded. Peter said he has read the letter from Mr. Nielsen; it's very clear we do not have a willing seller. Mary said because this was phrased as a matching amount she is in favor of keeping the option open. It will be matched by SACA and she trusts that they're not about to waste the taxpayers' money any more than we are, especially since there has been a lot of back and forth. Vince said the appropriation of these funds won't result in their expenditure - only if there is a willing seller. Peter asked Liv if the Conservation Commission would have any particular stand on this. She said she would be reluctant to speak and sees arguments both ways.

Motion to recommend to Town Meeting that we dismiss Peter's motion, Stan seconded

Vote: 4-4 Louis, Peter, Stan, Ellen; opposed Vince, Denise, Mary, Liv. The motion failed. Peter said the proposal stands.

Vince said we did not vote on Article 23, Section B. He suggested that we not vote, because any monies that we don't spend go into a reserve.

Motion to not recommend Section B of Article 23 because it appeared on the warrant without our recommendation.

Peter asked Mr. Musante or Ms. Aldrich about this. Sonia Aldrich said leftover funds do not automatically go into fund balance. It's a housekeeping measure. We don't know if you're going to vote on Hills House. Vince said we've never had this on the warrant. Peter said if we vote on the Hills mansion tonight then there won't be any money and it will be a moot point. John Musante said this is a change in practice from past years. Peter said the motion will stay on the table for now.

Plum Brook Athletic Fields

Vince passed out a memo by Koppelman and Paige 11/15/07 concerning the use of funds for recreational fields in Newton. Larry Shaffer said there is a shadow being cast by the Newton case. The facts of the Newton case are dramatically different from our own case. Joel Bard, Town Counsel, said the Newton case is on appeal and should be decided by the end of the summer. He referred to the language of the law. He said we don't yet know how the Supreme Judicial Court will rule. He advised the committee to stay on course in the repayment of the loan with CPA funds. He said the reason his firm sent out the memo is because it is the first guidance they have had. There has been no suggestion from the DOR that any money would have to be paid back. He doubts that they would come down on communities in that way.

ACTIONS

- **Motion** by Liv, seconded by Stan to recommend to Town Meeting that we pay the \$42,322 for the Plum Brook debt service. **Vote 7-1** Vince opposed
- **Article 20 B Motion** by Stan, seconded by Liv that we recommend up to \$200,000 to purchase the Main Street lots. **Vote 4-2-1** Peter, Liv, Stan, Ellen voted aye; Mary, Denise opposed; Louis abstained
- **Article 18 Motion** by Liv, seconded by Stan to recommend purchase price buydown assistance \$150,000 **Vote 7-0** Unanimous
- **Article 24 Community Preservation Ballot Question - Motion** by Mary, seconded by Liv to recommend that Town Meeting approve a surcharge increase of 1 1/2% which would bring the total to 3%. **Vote 4-1-2** Peter, Liv, Ellen, Mary; voted aye; Louis opposed; Denise, Stan abstained

MINUTES

Motion by Liv, seconded by Denise to approve the minutes of Oct 9, 2007 as amended. **Voted 5-0-2** Liv, Ellen abstained

Motion by Liv, seconded by Denise to approve the minutes of Jan 22, 2008 as amended. **Voted 5-0-2** Stan, Ellen abstained

Peter said we would take up the minutes of 2/26/08, 3/11/08, and 3/25/08 next time.

Speaking Assignments for Town Meeting

Movers: Denise will move all the articles at Town Meeting. Mary will be her backup if Denise is absent.

Speakers:

Article 18 Affordable Housing - mortgage buydown - Peter

Article 19 A & B Affordable Housing Olympia Drive and Habitat for Humanity - Peter

Article 20A Historic Preservation - Women's Club - Peter

Article 20A Historic Preservation - Archival Documents and Kimball House debt service - Louis

Article 20B Historic Preservation - Main Street Lots - Peter

Article 21A Open Space Appraisals - Liv if present, or Mary as backup

Article 21B Open Space / Recreation Appraisals - Stan Ziomek, Liv or Mary as backup

Article 21C Open Space Tietjen APR - Liv if present, or Mary as backup

Article 21D Open Space / South East St. Appraisal Match - Liv if present, or Mary as backup

Article 21E Open Space South East St. Nielsen property - dismiss - Liv if present, or Mary as backup

Article 22 North East St. Kimball House Compensation Agreement - Liv if present, or Mary as backup

Article 23A Administrative Expenses - _____

Article 23B Reserve - dismiss - _____

Article 24 CPA Ballot Question - _____

Next Committee Meeting Dates:

Wednesday, May 14, 2008 at 6:30 PM in Amherst Regional Middle School

ADJOURNMENT:

The meeting was adjourned at 8:31 pm Voted unanimously.

DOCUMENTS DISTRIBUTED

- Agenda
- Draft Proposals FY2009 Funding Recommendations by Category 4/15/08, 1 page
- Email dated 4/14/08 from Carol Gray Withdrawing Request for Funding of South East Street Project at this Time, 1 page
- Email 4/14/08 from David Ziomek forwarding Email 4/9/08 from Scott Nielsen Re: Recent ConCom Vote re: CPAC Funds, 1 page
- Hills Historic Landscape Park, Amherst Historical Commission CPA FY09 CPA Request 4/11/08, 3 pages
- Amherst Historical Commission Executive Session Minutes 2/25/08, 1 page
- Text and Motions for CPA articles 18, 19, 20, 21, 22, 23, 1 pages
- CPAC Draft Minutes 10/9/07, 2 pages
- CPAC Draft Minutes 10/16/07, 2 pages
- CPAC Draft Minutes 11/13/07, 1 page
- CPAC Draft Minutes 1/22/08, 2 pages
- CPAC Draft Minutes 2/26/08, 4 pages
- CPAC Draft Minutes 3/25/08, 2 pages
- Fiscal Year 09 CPA Historic Preservation Projects with photos and current and historic maps 4/15/08, 9 pages
- Koppelman and Paige 11/15/07 "Re: CPA Act Funds – The Implications of Seideman v. Newton", 9 pages

Respectfully Submitted by: Mary Streeter, Clerk

Minutes Approved: November 20, 2008